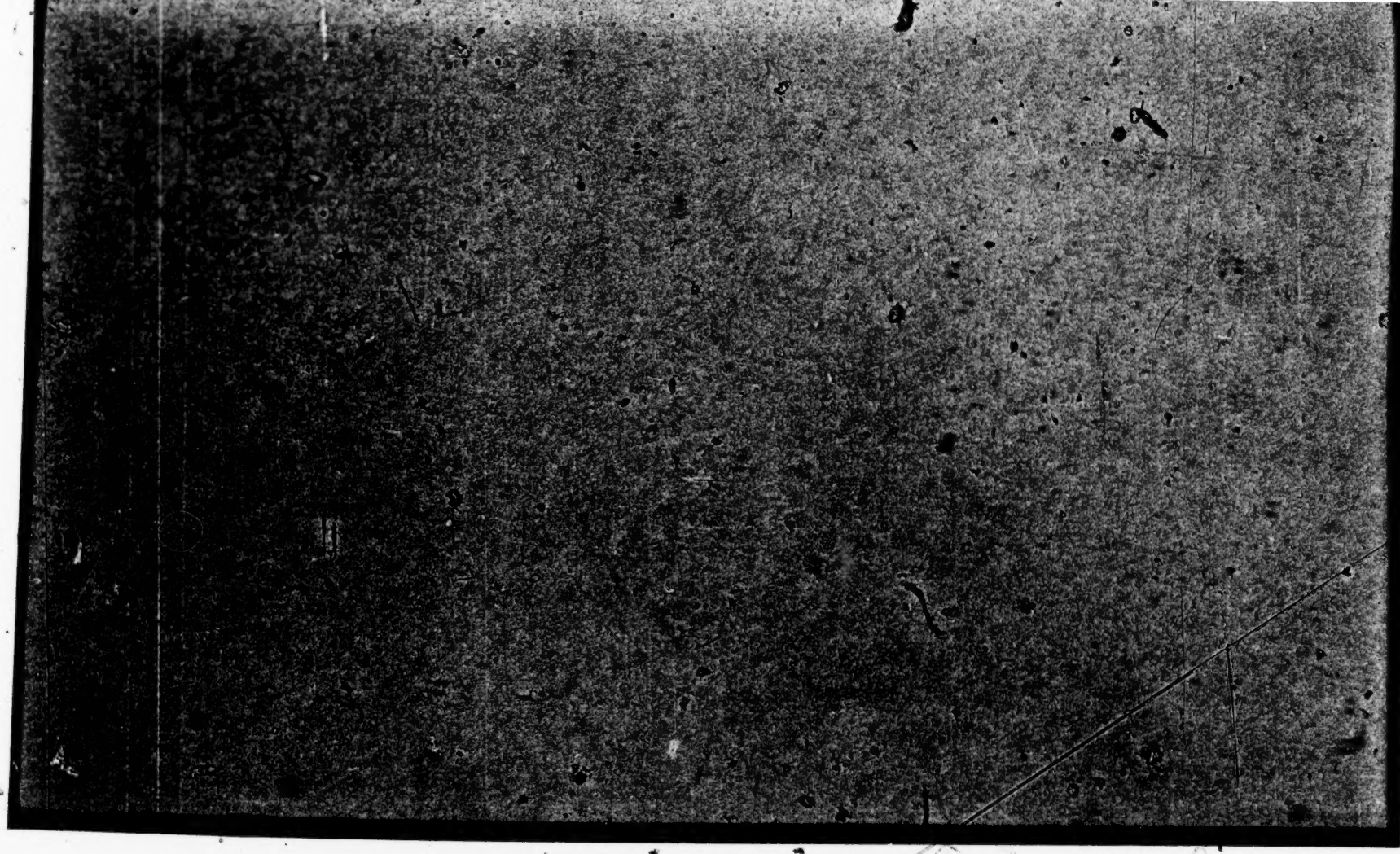

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IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1933

No. 861

SAM WILNER in his own right and as Administrator of the Estate of Meyer Wilner, deceased,

Petitioner,

vs.

THE UNITED STATES OF AMERICA,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT, AND BRIEF IN SUPPORT THEREOF.

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INDEX.

SUBJECT INDEX.

	PAGE
Petition	1
Prayer for writ	1
Summary statement of matter involved	2
Reasons relied on for allowance of writ	3
Statutes involved	5
Brief	6
Opinion of court below	6
Jurisdiction	6
Statement of the case	6
Specification of error	6
Argument	7
Case affects thousands of veterans and many others	7
Vested right exists	7
Reserved powers do not authorize destruction of all contract rights	8
Economy Act confiscates insurance and does not merely withdraw consent to suit	8
White v. U. S., distinguished	9
Economy Act violates 5th Amendment	10
Emergency does not nullify 5th Amendment	11
Legal Tender Cases not controlling	11
Economy Act cannot stand as mere withdrawal of consent to suit	12
Statute of limitations not avaliable as defense	13
Unconstitutional delegation of legislative powers	14
Petitioner's right to question such delegation	14

PAGE

Economy Act preserves no administrative remedy on war risk insurance 14

Congress may not grant unlimited discretion, nor delegate legislative powers 15

Such delegation appears in Economy Act 15

Combination of legislative and executive powers in same person despotic and destructive of free government 16

Conclusion 17

Appendix 19

Economy Act, various sections 19

World War Veterans' Act 21

TABLE OF CASES CITED.

Brooks-S. Corp. v. U. S., 265 U. S. 106 10

Buttfield v. Stranahan, 192 U. S. 470 ..... 4, 15

Butts v. Mer. T. Co., 230 U. S. 126 ..... 4, 12, 14

Cincinnati v. L. & N. R. Co., 223 U. S. 390 10

Close v. Glenwood Cemetery, 107 U. S. 466 ..... 4, 8

C., M. & St. P. R. Co. v. Wisconsin, 238 U. S. 491 ..... 4, 8

Collins v. San. Dist., 270 Ill. 108 13

Coombes v. Getz, 285 U. S. 434 ..... 4, 8

Dorchy v. Kansas, 264 U. S. 286 ..... 4, 12, 14

Employers' Liab. Cases, 270 U. S. 463 ..... 4, 12, 14

Ex parte Milligan, 4 Wall. 2 11

Field v. Clark, 143 U. S. 649 ..... 4, 15

Fletcher v. Peck, 10 U. S. 87 11

Harris v. U. S., 5 F. Supp. 368 ..... 12, 13

Hepburn v. Griswold, 75 U. S. 603 11

Highland v. Russell C. Co., 279 U. S. 253 11

Holyoke Co. v. Lyman, 82 U. S. 500 ..... 4, 8

Home B. & L. Assn. v. Blaisdell, 54 S. Ct. Rep. 231 11

Hurtado v. California, 110 U. S. 516 10

I. C. C. v. Goodrich T. Co., 224 U. S. 194 ..... 4, 15

PAGE

Knickerbocker Ice Co. v. Stewart, 253 U. S. 149 15
Legal Tender Cases, 79 U. S. 457 ..... 11, 12
Lloyd v. Sup. L. K. P., 98 F. 66 8
Louisville B. Co. v. U. S., 242 U. S. 409 ..... 4, 15
Lynch v. U. S., 67 F. (2d) 490 13
Miller v. State, 82 U. S. 478 ..... 4, 8
Monongahela N. Co. v. U. S., 148 U. S. 312 10
Newhall v. Sup. C. A. L. of H., 181 Mass. 111 8
O'Donoghue v. U. S., 289 U. S. 516 17
O'Neill v. Sup. C. A. L. of H., 70 N. J. L. 410 8
People v. McBride, 234 Ill. 146 ..... 12, 14
Phelps v. U. S., 274 U. S. 341 11
Pumpelly v. Green Bay Co., 13 Wall. 166 ..... 10, 12
Russian V. Fleet v. U. S., 282 U. S. 481 10
Sage v. Baldwin, 55 F. (2d) 968 ..... 12, 14
Shields v. Ohio, 95 U. S. 319 8
Sinking Fund Cases, 99 U. S. 700 ..... 4, 8
So. Ry. Co. v. Con. F. Co., 203 Ky. 441 11
Stanislaus County v. San. J. & K. R. C. & I. Co., 192 U. S. 201 ..... 4, 8
State v. Cumberland Club, 136 Tenn. 84 ..... 12, 14
Stearns v. Minnesota, 179 U. S. 223 ..... 4, 8
T., P. & W. Ry. Co. v. McClannon, 41 Ill. 238 13
U. S. v. Chi. etc. R. Co., 282 U. S. 311 ..... 4, 10, 15
U. S. v. Cohen G. Co., 255 U. S. 81 ..... 4, 11, 15
U. S. v. Cress, 243 U. S. 316 ..... 10, 12
U. S. v. Lynah, 188 U. S. 445 ..... 10, 12
U. S. v. Shreveport G. & E. Co., 287 U. S. 77 ..... 4, 15
U. S. v. Welch, 217 U. S. 333 10
Utah P. & L. Co. v. Pfort, 286 U. S. 165 ..... 4, 12, 14
Wall v. C. & O. R. Co., 200 Ill. 66 13
White v. U. S., 270 U. S. 175 ..... 8, 9
Wilson v. New, 243 U. S. 332 11

PAGE

TABLE OF STATUTES AND TEXT BOOKS CITED.

Am. Bar Assn. Journ., v. 19, No. 9, Sept., 1933, p. 493 ... 11
Am. Bar Assn. Jour., v. 19, No. 10, Oct., 1933, p. 587 ... 17
Beck, Future of the Constitution, 19 Am. Bar. Assn. Jour. 493 ... 11
Economy Act, vorious sections ... 2, 3, 5, 7, 9, 14, 15, 19
Farewell Address, 12 Writings of Washington 226 ... 17
Federalist, No. 44, p. 351, No. 47, p. 373, No. 48, p. 385 17
Flander's Lives and Times of the Chief Justices, v. 1, p. 256 ... 12
Jay, John, 5 Journals of Cong. 351 ... 12
Jefferson, Notes on the State of Virginia, 195. The Federalist, No. 48, p. 385 ... 17
Journals of Cong., v. 5, p. 351 ... 12
Judicial Code, Sec. 240 (a) ... 6
Madison, James, The Federalist, No. 44, p. 351, No. 47, p. 373 ... 17
McCarran, Growth of Federal Executive Power, 19 Am. Bar Assn. Jour., No. 10, Oct., 1933, p. 587 ... 17
Washington's Farewell Address, 12 Writing of Washington 226 ... 17
Webster, Daniel, Writings and Speeches of, v. 2, p. 107, v. 14, p. 362 ... 17
World War Veterans' Act ... 2, 5, 21

IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1933

No.

SAM WILNER in his own right and as Administrator of the Estate of Meyer Wilner, deceased,
Petitioner,

vs.

THE UNITED STATES OF AMERICA,
Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT, AND BRIEF IN SUPPORT THEREOF.

To the Supreme Court of the United States:

Your petitioner, Sam Wilner, in his own right and as Administrator of the estate of Meyer Wilner, deceased, prays that a writ of certiorari issue to review the judgment entered January 12, 1934 (R. 26), by the United States Circuit Court of Appeals for the Seventh Circuit in the above entitled cause.

I.

Summary Statement of the Matter Involved.

Petitioner sued April 28, 1933, in the District Court under the World War Veterans' Act, 1924, as amended (c. 849, Sec. 4, 46 Stat. 992, Sec. 445, Ch. 10, Tit. 38, Pocket Supp. U. S. C. A.) to recover total permanent disability and death benefits under the war risk insurance contract of his brother, said intestate (R. 2). His verified petition contains the usual allegations of residence of himself and his intestate, enlistment, discharge, making of the insurance contract and payment of premiums. The date of death alleged is May 15, 1929, and letters of administration May 20, 1929. Petitioner, in his individual capacity, is alleged to have been the beneficiary named in the insurance contract. It is alleged that while said insurance was in force decedent became totally and permanently disabled April 15, 1919 (changed by amendment from "to-wit: August 4, 1918"); that due proof thereof and written demand for payment of said insurance was made to appellee, by decedent, November 15, 1928, and by petitioner of that and said death also, May 17, 1929, followed by written denial April 7, 1933, by the Administrator of Veterans' Affairs on the purported authority of Section 17, Title I, of An Act to Maintain the Credit of the United States Government, Public No. 2, 73rd Congress, approved March 20, 1933, hereinafter called the Economy Act, c. 3, Tit. I, Sec. 17, 48 Stat. 11, Sec. 717, Ch. 12, Title 38, Pocket Supp., U. S. C. A. The petition then alleges that said Act, especially the portion purporting to affect petitioner's claim, is unconstitutional and void as an attempted delegation to an executive official of legislative powers contrary to Section 1, Article I, of the United States constitution and also as a deprivation of petitioner's property without due process of law and a taking of his private property for

public use without just compensation, all contrary to the portions of the Fifth Amendment to said constitution providing that no person shall be deprived of property without due process of law, nor shall private property be taken for public use without just compensation. Respondent's general demurrer (R. 7) to said petition was sustained and the petition thereupon dismissed for want of jurisdiction (R. 13). There was a written opinion by the District Court (R. 8).

On petitioner's appeal the judgment was reversed (R. 26), because of the error in awarding judgment for costs against petitioner, and the cause was remanded with directions to dismiss the petition for want of jurisdiction, without costs, the opinion of the reviewing court (R. 21) holding that the claimed constitutional violations did not exist.

II.

Reasons Relied on for Allowance of the Writ.

1. The decision in question involves important questions of federal law which have not been, but should be, settled by the Supreme Court, that is (*a*) whether Section 17, Title I, of the Economy Act, in taking away all rights under such a contract of insurance in order to maintain the credit of the United States Government, without making any compensation therefor, deprives the insured or his beneficiary of property without due process of law, or takes private property for public use without just compensation, contrary to the Fifth Amendment to the United States constitution; and (*b*) whether the said Title I, to the extent that it affects a claim such as petitioner's, is unconstitutional and void because it attempts to delegate to an executive official legislative powers contrary to Section 1, Article I, of said constitution.

2. In its decision of these questions the Circuit Court of Appeals has decided a federal question in a way probably in conflict with the applicable decisions of the Supreme Court (*a*) in *Sinking-Fund Cases*, 99 U. S. 700, 720, 721; *C., M. & St. P. R. Co.* v. *Wisconsin*, 238 U. S. 491, 496, 501-2; *Coombes* v. *Getz*, 285 U. S. 434, 441-2, 448; *Stanislaus County* v. *San J. & K. R. C. & I. Co.*, 192 U. S. 201, 213; *Close* v. *Glenwood Cemetery*, 107 U. S. 466, 476; *Stearns* v. *Minnesota*, 179 U. S. 223, 259; *Shields* v. *Ohio*, 95 U. S. 319, 324-5; *Holyoke Co.* v. *Lyman*, 82 U. S. 500, 502; and *Miller* v. *State*, 82 U. S. 478, 498, to the effect that reserved legislative powers of amendment, regulation and repeal give the right to change or regulate the rights of the party with whom, or for whose benefit, the contract was made only in minor and incidental matters in recognition of the continuing existence of the contract, and do not afford any authority whatever to annul or repudiate it, or to destroy all rights contracted to be given thereby: (*b*) also in *Dorchy* v. *Kansas*, 264 U. S. 286, 289-90, 291; *Employers' Liab. Cases*, 207 U. S. 463, 501-2; *Butts* v. *Mer. T. Co.*, 230 U. S. 126, 132, 133; and *Utah P. & L. Co.* v. *Pfort*, 286 U. S. 165, 184-5, to the effect that one portion of an Act of Congress cannot be separated from the other portions and held valid when those other portions are held void, unless the court can determine that Congress would have enacted the remaining portion if it had known that the rest of the Act was void, thus in the instant case endeavoring to uphold the mere incidental portion taking away by implication the right to sue, even though the rest of the Act be void; (*c*) also in *U. S.* v. *Cohen G. Co.*, 255 U. S. 81, 89-91, 92-3; *U. S.* v. *Shreveport G. & E. Co.*, 287 U. S. 77, 85; *I. C. C.* v. *Goodrich T. Co.*, 224 U. S. 194, 214, 215; *Louisville B. Co.* v. *U. S.*, 242 U. S. 409, 424-5; *U. S.* v. *Chi. etc. R. Co.*, 282 U. S. 311, 324; *Field* v. *Clark*, 143 U. S. 649, 692-4; and *Buttfield* v. *Stranahan*, 192 U. S. 470, 496, to the effect that discretionary powers may be given to an official of the executive

department in the administration of laws enacted by Congress, only where Congress fixes the primary standard to guide and limit him in the exercise of such discretion.

III.

Statutes Involved.

Economy Act, March 20, 1933, c. 3, Tit. I, Secs. 1, 2, 3, 4, 5, 17, 48 Stat. 11, Secs. 701, 702, 703, 704, 705, 717, Ch. 12, Tit. 38, Pocket Supp. U. S. C. A.

World War Veterans' Act, 1924, as amended July 3, 1930, c. 849, Sec. 4, 46 Stat. 992, Sec. 445, Ch. 10, Tit. 38, Pocket Supp., U. S. C. A.

Respectfully submitted,

EDWARD H. S. MARTIN,
Attorney for Petitioner.

BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI.

I.

Opinion of the Court Below.

The opinion in the United States Circuit Court of Appeals (R. 21) is not yet reported.

II.

Jurisdiction.

The date of the judgment to be reviewed is January 12, 1934 (R. 26). The jurisdiction of the court is invoked under Sec. 240 (*a*) of the Judicial Code as amended, c. 229, 43 Stat. 938, 28 U. S. C. A., Sec. 347.

III.

Statement of the Case.

The facts stated in the foregoing petition (pp. 2-3) are hereby adopted as a part of this brief.

IV.

Specification of Error.

The United States Circuit Court of Appeals for the Seventh Circuit erred in directing the District Court to enter judgment dismissing the petition.

V.

ARGUMENT.

The instant case affects not only, directly, the rights of the many thousands of war veterans and beneficiaries whose matured insurance claims had not been administratively decided prior to March 20, 1933, but also, indirectly, almost every citizen, in that it involves questions, woven into the fabric of much of the recent federal legislation, of taking private property for public use without just compensation and without due process of law, and of delegation of uncontrolled, unlimited and despotic discretionary powers to the executive to regulate the affairs of nearly everybody. It was error to direct the District Court to dismiss the petition because:

I.

Vested Right Exists.

It seems to be conceded by the Court of Appeals in the instant case, that if petitioner had a vested right to the insurance sued for, the portion of the Economy Act complained of would be unconstitutional, as a taking of private property for public use without just compensation and without due process of law, but that court has attempted to avoid that result by denying any such vested right, on the theory that the reserved powers in the contract of insurance making it subject to subsequently adopted amendments and regulations gave the right to destroy the contract even after it had matured, and on the theory that

White v. *U. S.*, 270 U. S. 175, denies any vested right in such contracts.

However, all such reserved powers, even those of revocation or repeal, are held to give the right to change or regulate the rights of the parties only in minor and incidental matters in recognition of the continued existence of the contract and do not afford any authority whatever to annul the contract, or repudiate it, or to destroy all rights contracted to be given thereby; and this is true with respect to such reserved powers as to all contracts, whether they be contained in a grant of a corporate charter,

Sinking-Fund Cases, 99 U. S. 700, 720, 721.
C., M. & St. P. R. Co. v. *Wisconsin*, 238 U. S. 491, 496, 501-2.
Coombes v. *Getz*, 285 U. S. 434, 441-2, 448.
Stanislaus County v. *San J. & K. R. C. & I. Co.*, 192 U. S. 201, 213.
Close v. *Glenwood Cem.*, 107 U. S. 466, 476.
Stearns v. *Minnesota*, 179 U. S. 223, 259.
Shields v. *Ohio*, 95 U. S. 319, 324-5.
Holyoke Co. v. *Lyman*, 82 U. S. 500, 522.
Miller v. *State*, 82 U. S. 478, 498.

or in private contracts of insurance.

Newhall v. *Sup. C. A. L. of H.*, 181 Mass. 111, 116-7; 63 N. E. 1 (Holmes, J.).
O'Neill v. *Sup. C. A. L. of H.*, 70 N. J. L. 410, 420-1; 57 A. 463, 467.
Lloyd v. *Sup. L. K. P.*, 98 F. 66, 70 (C. C. A. 7).

In the instant case the enactment in question does not, as the Court of Appeals supposes, merely withdraw consent to be sued on yearly renewable term insurance contracts and leave the liability of the United States on such contracts to be determined by an administrative official, but seizes the obligation absolutely and does not leave the determination of rights thereunder to anybody whatso-

ever. Neither the President nor the Administrator of Veterans' Affairs is given any right whatever to allow claims for yearly renewable term insurance and they could not, under the provisions of the Economy Act, allow petitioner's claim even if they desired to do so. The power given by that Act to allow claims, refers to other kinds of claims altogether, those created or preserved by said Title I, and not those destroyed by it, and it is with respect to such other claims that the decision of the Administrator of Veterans' Affairs is made final without any right of review by the courts.

The Court of Appeals is also mistaken in assuming that *White* v. *U. S.*, 270 U. S. 175, supports the contention that by virtue of the reserved powers, or otherwise, there is no vested right in a war risk insurance contract. In that case the soldier had changed the designation of beneficiary to his aunt, who was not in the eligible class. After a few months' payment of death benefits to the former beneficiary, Congress enlarged the class of permitted beneficiaries to include an aunt and made the amendment retroactive. This was held to apply to the existing contract in spite of the supposed rights of the former beneficiary, but that beneficiary had not been a party to the contract and the soldier had not wanted that beneficiary to receive any of the insurance but had wanted it to go to his aunt, and it was held the government could waive the limitation made for its benefit and give effect to the wish of the soldier to have the aunt become beneficiary. The government did not claim it could destroy the contract or take it to itself altogether, but argued that the change was to make the wish of the insured effective and was valid as a curative act. Even if it were true that a beneficiary has no vested right, the instant case involves not only the right of a beneficiary to death benefits, but also the right of the insured soldier himself to total permanent

disability benefits which matured during his lifetime and which are sued for by his administrator in the right of the insured and not as beneficiary.

Violation of Fifth Amendment.

Destruction has been held to be a taking within the meaning of the Fifth Amendment.

Pumpelly v. *Green Bay Co.*, 13 Wall. (60 U. S.) 166, 177-8.

The taking need not be by court proceeding, but the government must pay just compensation regardless of the manner of taking.

U. S. v. *Lynah*, 188 U. S. 445, 468, 471, 474.

It cannot rightfully be contended that in the instant case there was no taking, but merely an indirect and consequential damage."

U. S. v. *Welch*, 217 U. S. 333, 338-9.
Pumpelly v. *Green Bay Co.*, 13 Wall. (60 U. S.) 166, 177-8.
U. S. v. *Lynah*, 188 U. S. 445, 468, 471, 474.

This taking for public use is an exercise of the right of eminent domain and is not confined to real estate, but extends to contracts.

Russian V. Fleet v. *U. S.*, 282 U. S. 481, 486, 489.
Cincinnati v. *L. & N. R. Co.*, 223 U. S. 390, 400.
Brooks-S. Corp. v. *U. S.*, 265 U. S. 106, 123.

The prohibitions in the Fifth Amendment against taking property without just compensation or without due process of law are limitations upon the powers granted to the federal government either specifically, or in general terms, or by implication, in other portions of the constitution.

U. S. v. *Chi. etc. R. Co.*, 282 U. S. 311, 327-8.
U. S. v. *Cress*, 243 U. S. 316, 319-20, 326.
Monongahela N. Co. v. *U. S.*, 148 U. S. 312, 325.
Hurtado v. *California*, 110 U. S. 516, 535-7.

Taking private property for public use without just compensation is also prohibited on general principles of justice, regardless of any specific constitutional prohibition.

Fletcher v. *Peck,* 10 U. S. 87, 135.

Instances of the application of the constitutional prohibition in question to acts adopted to meet a public emergency are

So. Ry. Co. v. *Con. F. Co.,* 203 Ky. 441, 442-5; 262 S. W. 581.

Highland v. *Russell C. Co.,* 279 U. S. 253, 258, 259-60.

Phelps v. *U. S.,* 274 U. S. 341, 343, 344.

The emergency resulting from economic conditions, whether greater or less than war emergency, cannot suspend or change the operation upon the power of Congress of the guaranties and limitations of the Fifth Amendment, any more than so grave an emergency as a state of war can do so.

U. S. v. *Cohen G. Co.,* 225 U. S. 81, 88-9.

Home B. & L. Assn. v. *Blaisdell,* 54 S. Ct. Rep. 231, 235.

Wilson v. *New,* 243 U. S. 332, 348, 370-2, 376-7.

Ex parte Milligan, 4 Wall. 2, 120, 125, 126.

Beck, The Future of the Constitution, 19 Am. Bar Assn. Journal, No. 9, Sept. 1933, pp. 493, 497, 498, 540.

The *Legal Tender Cases* do not establish the validity of the enactment now under attack, because they do not apply to the facts, and, even were it otherwise, should be disregarded because of the peculiar circumstances under which they were decided, whereby a five to four decision overruled a five to three decision;

Legal Tender Cases, 79 U. S. 457,

Hepburn v. *Griswold,* 75 U. S. 603,

and also because one of the principles on which the *Legal Tender Cases*, 79 U. S. 457, 551, were based, that the taking referred to in the Fifth Amendment meant only a direct appropriation and not consequential injuries resulting from the exercise of lawful power, has been overruled in later cases.

U. S. v. *Lynah*, 188 U. S. 445, 468, 471, 474.
U. S. v. *Cress*, 243 U. S. 316, 319-20, 326.
Pumpelly v. *Green Bay Co.*, 13 Wall. (80 U. S.) 166, 177-8.

It is unnecessary to deny that Congress could withdraw the consent of the United States to be sued on war risk insurance contracts by an act devoted to the single purpose of such withdrawal, although even in that event some other method of ascertaining and performing such obligations of the United States would probably have to be provided. Congress did not merely withdraw consent to suit, but that withdrawal is a mere incident, by implication alone, to a seizure and confiscation of the contract obligations of the United States in order to maintain its financial credit, regardless of how reprehensible such a course may be, or how destructive of its honor and moral credit (John Jay, 5 Journals of Congress 351, 1 Flanders' Lives and Times of the Chief Justices 256), and it is not to be presumed that Congress would have enacted a withdrawal of consent to suit, if it had known the remainder of the Act was void. Without such presumption a part only of the Act cannot be sustained.

Dorchy v. *Kansas*, 264 U. S. 286, 289-90, 291.
Empolyers' Liab. Cases, 207 U. S. 463, 501-2.
Butts v. *Mer. T. Co.*, 230 U. S. 126, 132, 133.
Utah P. & L. Co. v. *Pfort*, 286 U. S. 165, 184-5.
Sage v. *Baldwin*, 55 F. (2d) 968, 970.
The People v. *McBride*, 234 Ill. 146, 165-6; 84 N. E. 865.
State v. *Cumberland Club*, 136 Tenn. 84, 101; 188 S. W. 583, 587.

The theory of the District Court, not adopted by the Court of Appeals, that the statute of limitations justifies the sustaining of the demurrer, is unsound, because in an action at law the defense of limitations can be availed of by plea only, not by demurrer.

Wall v. *C. & O. R. Co.*, 200 Ill. 66, 67-8; 65 N. E. 632.

Even were it otherwise, the amended date of beginning of total permanent disability, as shown by the opinion of the Court of Appeals (R. 22), was within the ten-year limitation period. Even under the petition before amendment such date was alleged under a videlicet and the petition shows that the premiums were paid out of decedent's pay as a soldier until his discharge from the army, March 31, 1919, which kept his insurance in force to May 1, 1919, and the allegation of the disability date under a videlicet was sufficient as an allegation of any date within the statute of limitations while the insurance was in force and therefore on the face of the petition the statute had not run.

Collins v. *San. Dist.*, 270 Ill. 108, 111; 110 N. E. 318.

T., P. & W. Ry. Co. v. *McClannon*, 41 Ill. 238, 240-1.

In this respect the instant case differs from *Lynch* v. *U. S.*, 67 F. (2d) 490, which has been distinguished in somewhat similar manner in a district court case which also holds the enactment now in question unconstitutional as a violation of the Fifth Amendment.

Harris v. *U. S.*, 5 Fed. Supp. 368.

II.

Unconstitutional Delegation of Legislative Powers.

Title I, of the Economy Act is also void as an unconstitutional delegation of legislative powers to the executive department, contrary to Section 1, Article I, of the constitution. This delegation is found mainly in the pension and compensation features of the Act and other matters not embraced within war risk insurance, but petitioner has a right to raise the constitutional question because he is adversely affected by a portion of the Act and it cannot be sustained in part, for it cannot be certain that Congress would have enacted the portion affecting petitioner if it had known that the other portions were void, and a mere possibility or doubt will not be sufficient to uphold it in part, as the court cannot exercise the legislative powers and discretion of Congress.

Dorchy v. *Kansas*, 264 U. S. 286, 289-90, 291.
Employers' Liab. Cases, 207 U. S. 463, 501-2.
Butts v. *Mer. T. Co.*, 230 U. S. 126, 132, 133.
Utah P. & L. Co. v. *Pfort*, 286 U. S. 165, 184-5.
The People v. *McBride*, 234 Ill. 146, 165-6; 84 N. E. 865.
State v. *Cumberland Club*, 136 Tenn. 84, 101; 188 S. W. 583, 587.

"there is no right of mutilation and a court will not resort to elimination."

Sage v. *Baldwin*, 55 F. (2d) 968, 970.

The Court of Appeals errs in supposing that the Economy Act delegates to anybody the right to pass upon war risk insurance claims that had not been allowed or disallowed prior to March 20, 1933, for such right is entirely abolished by that Act, although the Court of Appeals is right in deciding that the duty of passing upon claims

against the United States may be delegated to administrative bodies or officials. This is so because such functions are fact-finding ones, not involving the exercise of discretion. The allowance of pensions may be delegated, just as other discretionary powers may be given to an official of the executive department in the administration of other laws enacted by Congress; but in such cases the primary standards for such allowances or the exercise of such discretionary powers must be fixed by Congress and not left to the unguided discretion of the officials in question.

U. S. v. *Cohen G. Co.*, 255 U. S. 81, 89-91, 92-3.
U. S. v. *Shreveport G. & E. Co.*, 287 U. S. 77, 85.
I. C. C. v. *Goodrich T. Co.*, 224 U. S. 194, 214, 215.
Louisville B. Co. v. *U. S.*, 242 U. S. 409, 424-5.
U. S. v. *Chi. etc. R. Co.*, 282 U. S. 311, 324.
Field v. *Clark*, 143 U. S. 649, 692-4.
Buttfield v. *Stranahan*, 192 U. S. 470, 496.

Congress may not delegate its legislative powers.

Knickerbocker Ice Co. v. *Stewart*, 253 U. S. 149, 164.

The objectionable delegation of unlimited discretion in Title I of the Economy Act is to be found in the provisions of Section 1, that certain classes "may" be paid a pension, "subject to such requirements and limitations as shall be contained in regulations to be issued by the President;" of Section 1 (*b*) that the President may reduce the pension rate "as he may deem proper;" in the fact that no provision requires the allowance of any pension to any class unless the President shall desire to pay it; in the absence of any guide for the discretion of the President in determining the amount of pension within the wide limits of $6 to $275 per month for disability and $12 to $75 per month for death in Section 2; in the provisions of Section 3 authorizing the President to prescribe the "minimum degrees

of disability and such higher degrees of disability, if any, as in his judgment should be recognized and prescribe the rate of pension," therefor, without in any way fixing any rule or principle for designating such minimum and maximum other than the mere whim of the President, and further authorizing the President to prescribe "such differentiation as he may deem just and equitable, in the rates to be paid to veterans of different wars," but leaving it to his uncontrolled discretion to determine just what shall be just and equitable; in the provisions of Section 4 that the President shall prescribe by regulation the date of beginning and termination of the period in each war, service within which shall be deemed war-time service, in spite of the fact that the wars in question had become history and the facts on that point were as available to Congress as to the President; also in the provisions of Section 4 that the President shall prescribe "by regulation the required number of days of war or peace time service for each class of veterans, the time limit on filing of claims" and "any other requirements as to entitlement as he shall deem equitable and just," thereby leaving it to the President to determine a matter which could have been determined as easily by Congress from facts equally available to both and authorizing the President to enact a statute of limitations. The Section goes on to say that the President "may prescribe different requirements or conditions for the veterans of different wars" and may further subdivide the classes of persons and apply different requirements or conditions to such subdivisions. This, of course, means discrimination between various classes of veterans, not according to any rule fixed by Congress, but according to the whim of the President.

The combination of legislative and executive powers in one man or body of men, is not in harmony with our system of government and is the very essence of despotism and tyranny and should be resisted at the outset, even

though the depositary of the unlawful powers may be actuated by good motives, or the immediate purpose may be the accomplishment of a desirable end, for it is by just such means that free governments are destroyed.

O'Donoughue v. *U. S.*, 289 U. S. 516, 530.

Farewell Address, 12 Writings of Washington 226.

James Madison, The Federalist, No. 47, pp. 373-4, and No. 44, p. 351.

Thomas Jefferson, Notes on the State of Virginia, p. 195, quoted by James Madison, The Federalist, No. 48, p. 385.

2 *Writings and Speeches of Daniel Webster* 107.

14 *id.* 362.

McCarran, Growth of Federal Executive Power, 19 Am. Bar Assn. Jour. No. 10, Oct. 1933, pp. 587, 588, 589-90, 591, 592.

Conclusion.

When the legislative and executive departments join in a violation of the constitution, the Supreme Court is the last resort for the upholding of the rights of the citizen and the preservation of the constitution. In order that such functions may be exercised, the instant case ought to be reviewed on certiorari.

Respectfully submitted,

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Attorney for Petitioner.

APPENDIX.

Economy Act, March 20, 1933, c. 3, Secs. 1, 2, 3, 4, 5, 17, Title I, 48 Stat. 11, Secs. 701, 702, 703, 704, 705, 717, ch. 12, Tit. 38 Pocket Supp. U. S. C. A.:

SECTION 1. That subject to such requirements and limitations as shall be contained in regulations to be issued by the President, and within the limits of appropriations made by Congress, the following classes of persons may be paid a pension:

(*a*) Any person who served in the active military or naval service and who is disabled as a result of disease or injury or aggravation of a preexisting disease or injury incurred in line of duty in such service.

(*b*) Any person who served in the active military or naval service during the Spanish-American War, including the Boxer Rebellion and the Philippine Insurrection, or the World War, and who is permanently disabled as a result of injury or disease; *Provided,* That nothing contained in this title shall deny a pension to a Spanish-American War veteran past the age of sixty-two years entitled to a pension under existing law, but the President may reduce the rate of pension as he may deem proper.

(*c*) The widow, child, or children, dependent mother or father, of any person who dies as a result of disease or injury incurred or aggravated in line of duty in the active military or naval service.

(*d*). The widow and/or child of any deceased person who served in the active military or naval service during the Spanish-American War, including the Boxer Rebellion and the Philippine Insurrection.

(*e*) For the purpose of subparagraph (*b*) of this section, the World War shall be deemed to have ended November 11, 1918.

SECTION 2. The minimum and maximum monthly rate of pension which may be paid for disability or death shall be as follows: For disability, from $6 to $275; for death, from $12 to $75.

SECTION 3. For each class of persons specified in subparagraphs (*a*) and (*b*) of section 1 of this title the President is hereby authorized to prescribe by regulation the minimum degrees of disability and such higher degrees of disability, if any, as in his judgment should be recognized and prescribe the rate of pension payable for each such degree of disability. In fixing rates of pensions for disability or death the President shall prescribe by regulation such differentiation as he may deem just and equitable, in the rates to be paid to veterans of different wars and/or their dependents and to be paid for.

(*a*) Disabilities and deaths resulting from disease or injury incurred or aggravated in line of duty in war-time service;

(*b*) Disabilities and deaths resulting from disease or injury incurred or aggravated in line of duty in peace-time service;

(*c*) Disabilities and deaths not incurred in service.

SECTION 4. The President shall prescribe by regulation (subject to the provisions of section 1 (*e*) of this title) the date of the beginning and of the termination of the period in each war subsequent to the Civil War, including the Boxer Rebellion and the Philippine Insurrection, service within which shall for the purposes of this Act be deemed war-time service. The President shall further prescribe by regulation the required number of days of war or peace time service for each class of veterans, the time

limit on filing of claims for each class of veterans and their dependents, the nature and extent of proofs and presumptions for such different classes, and any other requirements as to entitlement as he shall deem equitable and just. The President in establishing conditions precedent may prescribe different requirements or conditions for the veterans of different wars and their dependents and may further subdivide the classes of persons as outlined in section 1 of this title and apply different requirements or conditions to such subdivisions.

SECTION 5. All decisions rendered by the Administrator of Veterans' Affairs under the provisions of this title, or the regulations issued pursuant thereto, shall be final and conclusive on all questions of law and fact, and no other official or court of the United Sttaes shall have jurisdiction to review by mandamus or otherwise any such decision.

SECTION 17. * * * all laws granting or pertaining to yearly renewable term insurance are hereby repealed, * * * Provided, that nothing contained in this section shall interfere with payments heretofore made or hereafter to be made under contracts of yearly renewable term insurance which have matured prior to the date of enactment of this chapter and under which payments have been commenced, or on any judgment heretofore rendered in a court of competent jurisdiction in any suit on a contract of yearly renewable term insurance, or which may hereafter be rendered in any such suit now pending: * * *

World War Veterans' Act, 1924, as amended July 3, 1930, c. 849, Sec. 4, 46 Stat. 992, Sec. 445, Ch. 10, Tit. 38, Pocket Supp. U. S. C. A.:

In the event of disagreement as to claim, including claim for refund of premiums, under a contract of insurance between the bureau and any person or persons claiming thereunder an action on the claim may be brought against the United States either in the Supreme Court of the Dis-

trict of Columbia or in the district court of the United States in and for the district in which such persons or any one of them resides, and jurisdiction is hereby conferred upon such courts to hear and determine all such controversies. * * *

No suit on yearly renewable term insurance shall be allowed under this section unless the same shall have been brought within six years after the right accrued for which the claim is made or within one year after July 3, 1930, whichever is the later date, * * * *Provided further*, That this limitation is suspended for the period elapsing between the filing in the bureau of the claim sued upon and the denial of said claim by the director. * * * No state or other statute of limitations shall be applicable to suits filed under this section. * * *.

The term "claim" as used in this section, means any writing which alleges permanent and total disability at a time when the contract of insurance was in force, or which uses words showing an intention to claim insurance benefits and the term "disagreement" means a denial of the claim by the director or some one acting in his name on an appeal to the director. This section, as amended, with the exception of this paragraph, shall apply to all suits now pending against the United States under the provisions of the War Risk Insurance Act, as amended, or this chapter.